



Legislative Finance Committee

57th Montana Legislature

Room 110, State Capitol, • P.O. Box 201711 • Helena, MT 59620-1711 • (406) 444-2986 • FAX (406) 444-3036

HOUSE MEMBERS

DAVE LEWIS, CHAIRMAN
GARY FORRESTER
JOEY JAYNE
DAVE KASTEN
JOHN BRUEGGEMAN
JOE TROPILA

SENATE MEMBERS

GREG JERGESON, VICE CHAIRMAN
BOB KEENAN, SECRETARY
ROYAL JOHNSON
LINDA NELSON
EMILY STONINGTON
TOM ZOOK

MINUTES

October 3 & 4, 2002
Room 102, State Capitol
Helena, Montana

ROLL CALL FOR OCTOBER 3, 2002

Rep. Dave Lewis
Rep. Gary Forrester
Rep. Joey Jayne
Rep. Dave Kasten, Excused
Rep. John Brueggeman (seated after election Thursday a.m.)
Rep. Joe Tropila
Sen. Greg Jergeson
Sen. Royal Johnson
Sen. Bob Keenan
Sen. Linda Nelson
Sen. Emily Stonington
Sen. Tom Zook
Clayton Schenck, Legislative Fiscal Analyst
Cindy Campbell, Committee Secretary

Call to Order (Tape 1A-010)

The 183rd meeting of the Legislative Finance Committee (LFC) was called to order at 8:35 a.m. by Representative Dave Lewis, Chair, on Thursday, October 3, 2002. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

1. Approval of Minutes for June 13 & 14, 2002 (Tape 1A-015)

Senator Keenan moved the minutes of the June 13 & 14, 2002, meeting be approved as presented. **VOTE:** The motion carried unanimously.

2. August 2002 Special Session Fiscal Report (Tape 1A-028)

Clayton Schenck, Director for the Legislative Fiscal Division (LFD), presented the August 2002 Special Session Fiscal Report. (Exhibit 1)

3. Committee Membership (Tape 1A-180)

Clayton Schenck informed the committee members that they needed to take action to fill Representative Price's vacancy on the LFC. (Representative Price recently resigned from the legislature.) He presented a copy of section 5-12-204, MCA, which states in part, "If a vacancy occurs on the committee when the legislature is not in session, the remaining members shall select a member of the appropriate political party and appropriate committee as provided in 5-12-202, to complete the unexpired term." (Exhibit 18 - This exhibit is part of Committee Business.)

MOTION: **Senator Keenan** moved and **Senator Stonington** seconded that the LFC appoint **Representative Brueggeman** to fill the vacant membership previously held by Representative Price. **VOTE:** Motion carried unanimously. **Representative Brueggeman** was seated immediately.

4. Economic Outlook (Tape 1A-224)

Dr. Paul Polzin, Director of the Bureau of Business and Economic Research at the University of Montana, presented information on the status of Montana's economy. (Exhibit 2)

Dr. Myles Watts, Department Head of the Agricultural Economics & Economics at Montana State University, also offered a presentation on the status of economics in Montana.

5. Special Session Tax Legislation and Fiscal 2003 Revenue Update (Tape 1B-034)

Terry Johnson, Principal Fiscal Analyst, presented information on the special session tax legislation and an update on fiscal 2003 revenue. (Exhibit 3) In response to a question from **Representative Forrester** regarding the amount of uncollected income taxes due to tax amnesty, Judy Paynter, Department of Revenue (DOR), told the committee that she would research this and provide a response to the members during the meeting on the following day.

6. LFD General Fund Preliminary Budget Outlook “Big Picture Report” 2005 Biennium

(Tape 1B-660)

Clayton Schenck presented the LFD General Fund Preliminary Budget Outlook “Big Picture Report” 2005 Biennium on behalf of the entire LFD staff. (Exhibit 4) He outlined the significant issues and explained “present law”, which is the starting point for making budget decisions during the upcoming legislative session. Mr. Schenck also detailed significant issues not included in the projections, including initiatives that could have fiscal impacts. In summary, he told the members of the LFC that they face the most severe budget crisis in at least 16 years and that with the issues identified by the LFD staff, the budget shortfall could be in excess of \$300 million.

Mr. Schenck provided summary comments on the Western State Legislative Fiscal Officers Conference, held in Bigfork on September 11 – 13, 2002. He distributed copies of a handout which describes the budget picture for the other western states (Exhibit 5) and an email explaining Idaho’s budget status (Exhibit 5a).

Terry Johnson and Taryn Purdy, Principal Fiscal Analysts, provided details on the revenues and the expenditures, respectively.

Chuck Swysgood, Director of the Office of Budget and Program Planning (OBPP), responded on behalf of the executive. OBPP will prepare the 2005 biennium budget based on the \$250 million deficit and will be working with the LFD staff on the plan for presenting the budget to the 2003 legislature. He told the LFC that OBPP has not updated their revenue figures since the LFC meeting in June because of the “volatility” in the short timeframe. However, they will review the figures in more depth at the end of October.

Senator Stonington asked a question on how the executive will work with agencies to reduce the budget to meet the shortfall, i.e. setting priorities and cutting programs versus across-the-board cuts or one-time cuts. Director Swysgood stated their approach will be to determine a target rate for each agency that will address the shortfall, and if this plan fails to meet the target,

they will review priorities and individual programs for possible elimination. In response to additional questions by **Senator Stonington** and **Representative Forrester** as to whether any consideration will be given to review of any tax relief programs or tax increases, Director Swysgood told committee the executive will not consider anything in this direction at this time.

7. LFD Budget Analysis Development 2005 Biennium (Tape 2B-330)

The LFD Budget Analysis Development 2005 Biennium proposal was presented by Clayton Schenck. (Exhibit 6) He explained the purpose of this report, which is to solicit feedback from the LFC not only on the approach of the budget analysis for the 2003 legislative session, but also on the types of criteria LFD staff will use to explore and present options to the legislature. The report provided lists of criteria for legislative options in three areas: 1) program review, 2) revenue/tax policy review, and 3) fund balances.

Representative Lewis expressed his concern that this proposal may be a policy change and asked the LFC to give it careful consideration. Mr. Schenck assured the LFC that the LFD staff is not providing an alternative budget, but a “shopping list” of alternative options for consideration in balancing the budget. He reminded the committee that LFD staff has always identified issues in the budget analysis, which offer the legislature options for balancing the budget. This proposal would simply expand the information available. He stated he would give committee concerns careful consideration.

Senator Jergeson stated that he felt it would be time well spent for the staff to make this type of information available to the legislature for use in making policy decisions during the session. He urged the LFC to approve this proposal, which would provide additional information to the legislature. **Senators Stonington and Nelson** agreed with Senator Jergeson in that any additional information made available to them would help the legislature in making these critical budget decisions.

Senator Keenan voiced concerns about the amount of staff time involved if the LFC approved this proposal, especially in light of the current comp time issues. **Senator Johnson** also

expressed concern about the additional staff time this would entail. Mr. Schenck responded that it will be a division goal to do the current budget analysis with no increase in comp time hours.

Lois Steinbeck, Senior Fiscal Analyst, offered examples of the types of issues she would look at with regard to the Department of Public Health and Human Services (DPHHS) and possible options for consideration. Discussion ensued with no consensus reached. This issue was tabled until Friday, October 4, at which time the discussion continued.

Continued Discussion Regarding LFD Budget Analysis Development 2005 Biennium (Tape 7A-134)

Mr. Schenck told the LFC he does not see this proposal as a major policy change. The staff would provide the legislature with additional information as was previously stated. The question of this proposal being a policy change versus simply additional information was further discussed.

Following discussion, the direction from the LFC to the LFD staff was to continue preparing the budget analysis the same as in the past. Mr. Schenck thanked committee members for their feedback in consideration of this proposal and said he would heed their suggestions and notify the chair and advisory committee of any significant issues related to the staff budget analysis.

8. Potential Agency Cost Over-Runs/Supplemental Requests (Tape 3A-210)

Taryn Purdy presented a report on the potential agency cost overruns and supplemental requests. (Exhibit 7) She summarized the potential supplementals and cost overruns and told the LFC members they should be aware of these areas and the possible impacts. Ms. Purdy stated these are “spending pressures” for these departments, which the legislature may be facing in the upcoming session. As discussed in the report on page 3, they will need to take some major measures to stay within their budgets in fiscal 2003 and they and OBPP have indicated they are committed to doing that.

Joe Williams, Department of Corrections (DOC), responded to questions from LFC members with regard to prison population and service issues.

Fire Suppression Costs – 2003 Biennium Estimate (Tape 3A-488)

Gary Hamel, Senior Fiscal Analyst, reported to the committee on the status of the DNRC fire suppression costs. (Exhibit 8) Some of the costs on Table 1, page 1 of his report were updated after the report was written and he provided the new figures for the committee. (These have been corrected on Exhibit 8.) Mr. Hamel reported to the LFC that DNRC's ability to pay these fire costs is not adequate. The department has not utilized the Governor's emergency fund in fiscal 2003. However, they did utilize the fund for the biennium. DNRC did request early payment from the federal government and because this request was unusual, Mr. Hamel asked for a legal opinion from the legislative legal staff. A summary of the legal opinion and the legal opinion from the director of legal services, Greg Petesch, accompanied Mr. Hamel's report. (Exhibit 8A) Mr. Hamel responded to questions from the LFC members.

9. District Courts Financing: Update (Tape 3A-657)

Lynn Zanto, Associate Fiscal Analyst, introduced the issue of district courts financing – state assumption. (Exhibit 9) Chief Justice Karla Gray updated the committee, addressing the items listed in Mrs. Zanto's report, Exhibit 9. In response to a question from **Representative Lewis**, Lisa Smith, Judiciary Branch, told the LFC members the branch's current base general fund allocation is \$18.7 million for the biennium, but will increase to \$80 million for the upcoming biennium. In response to questions from **Senator Stonington**, Mrs. Smith clarified that the \$80 million is for the entire Judicial Branch budget, not just the district court operations. She said approximately \$60 to \$64 million will be attributed to the new district court operations, which includes the \$12 million in the base budget. Director Swysgood explained the allocation provided by HB 124 and SB 176 for this total approximately \$37 million for the first biennium.

Harold Blattie, MACO, responded to questions from LFC members regarding funding costs prior to the state assumption of district court costs.

In response to questions from **Senator Stonington**, Chief Justice Gray stated that this change was not funded adequately from the beginning and the costs are a direct result of the number of

cases filed. She told the committee that the costs are the costs of doing business for the courts and she cannot contain those costs.

10. Refinancing General Fund Costs in DPHHS: Status (Tape 4A-300)

Lois Steinbeck provided a summary update on the status of refinancing general fund costs in DPHHS. (Exhibit 10) Chuck Hunter from DPHHS, who is in charge of this program, updated the committee on the progress of the refinancing program. (Exhibit 10a) Mr. Hunter, Director Swysgood, and Lois Steinbeck responded to questions from committee members.

Pat Gervais, Senior Fiscal Analyst, presented a memo from Jeff Sturm, Program Director for the Developmental Disabilities Program at DPHHS, regarding the refinancing of developmental disabilities services. (Exhibit 10b)

11. Committee Bill Drafts: SB 495 and Authorization to Request an AG Opinion (Tape 4A-486)

Draft Legislation to Amend Senate Bill 495 – Roger Lloyd, Senior Fiscal Analyst, presented the draft legislation to amend SB 495. (Exhibit 11) He noted one change, not reflected on the draft, on page 2, sub (2), the word “directly” has been deleted from the text. Clayton Schenck told the committee DRNC and LFD agree on the bill, conceptually, but have not reached total agreement on the language.

MOTION: Following discussion of the draft bill, **Senator Stonington** moved the LFC approve the bill, conceptually, with the deletion of the word “directly” on the second page, and subject to final negotiations between DRNC and LFD on the language. **VOTE:** Motion carried unanimously.

Bill Draft for Attorney General Opinion – Taryn Purdy presented draft legislation which would give the LFC and other statutory committees the authority to request an opinion from the Attorney General. (Exhibit 12) She provided a brief background summary and offered three options for consideration by the committee. **Chairman Lewis** explained situations when the LFC would use this power.

MOTION: **Senator Johnson** moved the LFC accept Option 1, which would authorize the legislation and appoint a sponsor. Discussion ensued with Ms. Purdy and Mr. Schenck responding to questions from committee members.

SUBSTITUTE MOTION: **Representative Tropila** moved that the LFC vote on the authorization of the bill, but action would be pending approval of the Legislative Audit Committee and the Legislative Council. Mr. Schenck explained that the draft legislation will also be presented to the Legislative Council, Legislative Audit Committee, and Environmental Quality Council for approval before the next LFC meeting in November. He explained past situations where the LFC might have used this power. LFC members discussed the impacts of the possible actions. **VOTE:** The substitute motion carried with **Representative Forrester and Senators Johnson, Nelson and Stonington** voting no.

12. Budget Amendments/Operating Plan Changes/Other Reports (Tape 4B-192)

The budget amendments and operating plan changes were presented by Taryn Purdy. (Exhibits 13 – 13b) She informed the committee these reports are informational only and require no action by the LFC. The required reports were included in the LFC notebook but were not formally presented. (Exhibit 13c)

13. HB 2 Companion Bill: Recommendations Regarding Use of Language in HB 2 (Tape 4B-202)

Taryn Purdy presented a report regarding the option of a HB 2 companion bill. (Exhibit 14) The report raises the question of whether the LFC wishes to endorse the concept of a companion bill to HB 2 that would move in tandem with HB 2. The companion bill would do two things: 1) provide a vehicle for substantive law changes to implement HB 2 and 2) allow for the inclusion at any time in the process for other HB 2-related substantive law changes. Ms. Purdy's report also raises a question for consideration as to whether the LFC wishes to endorse the concept of a separate section or vehicle for certain types of statements of legislative intent that may not be appropriate for HB 2. The report provided an example of a situation during the last legislative

session where the companion bill would have helped. (See footnote at the bottom of page 2 of exhibit 14.)

During the discussion on this issue, several members of the LFC expressed concern about endorsing a companion bill because of the opportunity for possible “mischief” with HB 2. Consensus of the LFC indicated there needs to some way to preserve the integrity of HB 2 language. Clayton Schenck was asked to present a recommendation to the LFC at the November meeting, at which time they will take action on this issue.

14. HJR 1 Interim Study of Public Mental Health Services: Update (Tape 4B-553)

Senator Keenan provided a summary update on the work of the HJR 1 Interim Study of Public Mental Health Services. (Exhibit 15) Lois Steinbeck also provided comments on the status of the subcommittee. **Senator Stonington** explained to the LFC the intent of the subcommittee in regard to the draft legislation to refine the statutory distribution of the alcohol tax allocated to DPHHS (item 2 on page 1 of the report).

15. Legislative Fiscal Training – Curriculum/Plan (Tape 5A-119)

In her memo on legislative training, Taryn Purdy provided an opportunity for committee feedback on proposed legislator training by the LFD. (Exhibit 16) She provided a background summary of previous legislative training and plans for proposed training. LFC members offered the following suggestions: 1) send out training materials to the legislators prior to the training sessions; 2) interactive exercises during the training; and 3) provide an agenda prior to the training.

MOTION: **Senator Jergeson** moved the LFC approve and authorize LFD to proceed with the proposed training plans. **VOTE:** Motion carried unanimously.

16. Final Report/Recommendations of SB 162 Earmarking Review Subcommittee (Tape 5A-220)

Jon Moe presented the final report and recommendations of the SB 162 Earmarking Review Subcommittee. (Exhibit 17) Mr. Moe also presented the draft legislation for approval from the LFC. (Exhibit 17a)

MOTION: Senator Zook moved the LFC approve the draft legislation as recommended by the SB 162 Earmarking Review Subcommittee. **VOTE:** Motion carried unanimously. **Chairman Lewis** will ask Representative Kasten to sponsor the bill.

17. Committee Business (Tape 5A-550)

Clayton Schenck presented the items under committee business. (Exhibit 18)

LFD Compensatory Time Status - Mr. Schenck presented a detailed report on the status of the LFD compensatory time, which included a summary background of this issue. He responded to questions from various LFC members.

LFD Budget Request - Mr. Schenck presented the LFD 2005 biennium budget request for approval. He explained that the proposed budget request was prepared using the same standards as used by the executive branch in preparing their budgets.

MOTION: Senator Stonington moved the LFC approve the proposed LFD 2005 biennium budget request. **VOTE:** Motion carried unanimously.

Proposed LFC Direction Regarding HB 2 Legal Review – Mr. Schenck explained the directions from the Management Advisory Committee to the LFC that a dedicated legal review of HB 2 be added to the existing steps in the HB 2 administrative process. This added stop is to take place with the “purple copy” of the bill (this is the first version of the bill that strikes all after the enacting clause) prior to adoption by the House Appropriations Committee. This new step is to be in addition to the existing drafting, legal, proofing, and editing steps already in place for HB 2.

FRIDAY, OCTOBER 4, 2002

Roll Call for October 4, 2002

Rep. Dave Lewis
Rep. Gary Forrester
Rep. Joey Jayne, Excused
Rep. Dave Kasten, Excused
Rep. John Brueggeman
Rep. Joe Tropila
Sen. Greg Jergeson
Sen. Royal Johnson
Sen. Bob Keenan
Sen. Linda Nelson
Sen. Emily Stonington
Sen. Tom Zook
Clayton Schenck, Legislative Fiscal Analyst
Cindy Campbell, Committee Secretary

Call to Order (Tape 5B-620)

The 183rd meeting of the Legislative Finance Committee (LFC) reconvened on Friday, October 4, 2002, and was called to order at 8:10 a.m. by **Representative Dave Lewis**, Chair, in Hearing Room 102 of the State Capitol, Helena, Montana.

18. Information Technology Management Update (SB 131) (Tape 5B-625)

Greg DeWitt, Senior Fiscal Division, provided an overview of the information technology management update.

Brian Wolf, CIO, presented an update on information technology management. (Exhibit 19) He distributed copies of the proposed major information technology projects with associated costs through 2007. (Exhibit 19a) Mr. Wolf responded to questions from committee members.

19. Final Report/Recommendations of PEPB Subcommittee (Tape 6B-347)

Pam Joehler, Senior Fiscal Analyst, presented the final report and recommendations of the PEPB Subcommittee. The report, titled Public Postsecondary Education Policy Goals, Accountability Measures & Reporting, included an introduction, summary background, policy goals, accountability measures and reporting, and a written agreement. (Exhibit 20) Rod Sundsted from CHE and members from the subcommittee provided comments about the subcommittee and

the final recommendations. Discussion was held and Mrs. Joehler responded to questions from committee members.

Next LFC Meeting

The next meeting of the LFC will be held on November 19, 2002, and on November 18, if a two-day meeting is necessary.

Adjournment

MOTION: Representative Tropila moved to adjourn. **VOTE:** Motion carried unanimously. Meeting adjourned at 10:40 a.m.

Representative Dave Lewis, Chairman

Cindy Campbell, Committee Secretary